

Opinion No. 56-243—May 21, 1957

SUBJECT: CHIROPRACTOR may not remove hemorrhoids by process whereby an anesthetic gelatin is applied and if insufficient to deaden area, needle with narcotic is used, after which electric needle is applied, resulting in sloughing off of dead tissue, without violating Chiropractic Act.

Requested by: ASSEMBLYMAN, 70th DISTRICT.

Opinion by: EDMUND G. BROWN, Attorney General.
Henry A. Dietz, Assistant.

The Honorable William S. Grant, Assemblyman from the 70th District, has asked the opinion of this office as to whether a chiropractor may engage in the practice of removing piles or hemorrhoids by a process whereby an anesthetic gelatin is applied and if the gelatin is insufficient to deaden the area a needle with some narcotic is used, after which an electric needle is then applied, resulting generally in the sloughing off of dead tissue.

Our conclusion may be summarized as follows:

Such a practice is outside the scope of the Chiropractic Act.

ANALYSIS

Section 7 of the Chiropractic Act (Calif. Stats. 1923, p. lxxxviii; Deering's Gen. Laws, Act 4811), provides that a license to practice chiropractic "shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools or colleges." This section does not enlarge the usual signification of the term "chiropractic." In California the term has been judicially defined as: "'A system of [or] the practice of adjusting the joints, especially of the spine, by hand for the curing of disease'" (*People v. Fowler*, 32 Cal. App. 2d Supp. 737, 746, quoting from Webster's International Dictionary).

Section 7 of the Chiropractic Act further provides that the licensee is not authorized to practice "medicine, surgery, osteopathy, dentistry or optometry," nor to use "any drug or medicine now or hereafter included in *materia medica*." This limiting language is construed as preventing "a chiropractic licensee from using drugs or medical preparations or severing or penetrating the tissues of human beings" (*People v. Mangiagli*, 97 Cal. App. 2d Supp. 935, 939; *People v. Fowler*, *supra*).

In the case of *Oosterveen v. Board of Medical Examiners*, 112 Cal. App. 2d 201, 205-206, it was held "The use of natural methods of healing is not forbidden

by law. Physicians and surgeons, osteopaths, chiropractors and all those who hold licenses as drugless practitioners may use them. It is of common knowledge that nature is the indispensable healing agency and that practitioners of medicine and surgery, osteopathy and chiropractic make use of the curative qualities of light, air, water, rest, diet, and physical and mental culture, in connection with the agencies peculiar to their several systems of healing" (Petition for Hearing denied by Supreme Court September 11, 1952). However, in this opinion we are not concerned with natural methods, but the facts given. The methods referred to in the facts presented to us clearly indicate the use of a medical preparation and the penetration of tissues of human beings.

An earlier opinion of this office, relating to chiropractic, appropriately states that "specialization in rectal healing could hardly be said to be part of a system of healing which treats disease by manipulation of the spinal column" (Ops. Cal. Atty. Gen. No. 10520, dated February 14, 1936).

Clearly, the use of an anesthetic gelatin constitutes the use of a medication in a course of treatment and the prohibited practice of medicine by the chiropractor. The injection of an anesthetic solution by the use of a hypodermic needle in the course of treatment also constitutes a forbidden penetration of the tissues (*Kendall v. Bd. of Osteopathic Examiners* (1951), 105 Cal. App. 2d 239, 246; *King v. Board of Medical Examiners* (1944), 65 Cal. App. 2d 644; *Cooper v. State Bd. of Medical Examiners* (1950), 35 Cal. 2d 242, 249-250).

It appears that there are at least three different technics of electrical surgery which are referred to as "direct fulguration," "indirect fulguration," and "desiccation" (Darland's *The American Illustrated Medical Dictionary*, 22nd Edition, 1951). These technics involve the application of high frequency electrical currents in surgical diathermy. These are sometimes referred to as:

1. "Noncontact monoterminial surgical diathermy" or "fulguration";
2. "Contact monoterminial surgical diathermy" or "electrodesiccation"; and
3. "Indirect monoterminial surgical diathermy," or "indirect fulguration."

(*The Cyclopedia of Medicine and Surgery* (1955 ed.) Vol. 4, p. 927).

It is apparent that the use of the electric needle referred to in the opinion request involves the use of one or more of the above technics, and that each and all of said technics constitute the penetration of tissue and the forbidden practice of surgery by a chiropractor (*Millsap v. Alderson* (1923), 63 Cal. App. 518, 530-531; *Nethken v. State* (Ariz. 1940), 104 P. 2d 159, 162; *Ames v. Board of Medical Examiners* (L.A. Sup. Ct. No. 650727).

Not only do the practices described trespass beyond the zone of the Chiropractic Act, but they bear no vestige of kinship to chiropractic as it is traditionally defined.